

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF NEW YORK

JEFFREY DUNCAN & SHERRY DUNCAN,

Plaintiffs,

-against-

FIRST SOURCE ADVANTAGE,

Defendant.

**VERIFIED COMPLAINT and DEMAND  
FOR JURY TRIAL**

NOW COME Plaintiffs Jeffrey Duncan & Sherry Duncan (“Plaintiffs”), through their attorneys, Krohn & Moss, Ltd., allege the following against First Advantage, LLC, (“Defendant”):

Nature of the Action

1. This action is brought by Plaintiffs pursuant to the Fair Debt Collection Practices Act, 15 U.S.C. § 1692 *et seq.* (“FDCPA”).

Parties

2. Plaintiffs are natural persons residing in York, Pennsylvania.

3. Plaintiffs are allegedly obligated to pay a debt and is a consumer as defined by 15 U.S.C. § 1692a(3).

4. Defendant is a limited liability company having its principal place of business located in Amherst, Erie County, New York.

5. Defendant is a debt collector as defined by 15 U.S.C. § 1692a(6), and sought to collect a consumer debt from Plaintiffs.

6. Defendant acted through its agents, employees, officers, members, directors, heirs,

successors, assigns, principals, trustees, sureties, subrogees, representatives and insurers.

Jurisdiction and Venue

7. Jurisdiction of this court arises pursuant to 15 U.S.C. § 1692k(d), which states that such actions may be brought and heard before “any appropriate United States district court without regard to the amount in controversy.”

8. Because Defendant conducts business in the state of New York, personal jurisdiction is established.

9. Venue is proper pursuant to 28 U.S.C. § 1391(b)(2).

10. Declaratory relief is available pursuant to the Declaratory Judgment Act, 28 U.S.C. §§ 2201 - 2202.

Factual Allegations

11. Defendant constantly and continuously places collection calls to Plaintiff seeking and demanding payment for an alleged debt (see Exhibit A hereto).

12. Defendant called Plaintiffs from the following telephone numbers: 716-213-5253, 716-215634 and 716-213-5657.

13. Defendant calls Plaintiffs on their home telephone number.

14. Defendant calls Plaintiffs and hangs up without leaving voicemail messages.

15. Defendant fails to inform Plaintiffs that the First Source Advantage, LLC is the caller.

16. Defendant fails to inform Plaintiffs in each communication that Defendant is a debt collector.

CLAIM FOR RELIEF

17. Defendant's violations of the FDCPA include, but are not limited to, the following:
- a. Defendant violated §1692d of the FDCPA by engaging in conduct of which the natural consequence is the abuse and harassment of the Plaintiffs;
  - b. Defendant violated §1692d(5) of the FDCPA by causing a telephone to ring repeatedly and continuously with the intent to annoy, abuse, and harass Plaintiffs;
  - c. Defendant violated §1692d(6) of the FDCPA by placing telephone calls without meaningful disclosure of the caller's identity because Defendant calls Plaintiffs and hangs up the phone without leaving a voicemail message that indicates that the call is from "First Source Advantage, LLC";
  - d. Defendant violated §1692e(4) of the FDCPA but threatening to garnish Plaintiff's wages;
  - e. Defendant violated §1692e(11) of the FDCPA by failing to disclose in subsequent communications that the communication was from a debt collector;

WHEREFORE, Plaintiffs pray that judgment be entered against Defendant for the following:

- (1) Declaratory judgment that Defendant's conduct violated the Fair Debt Collection Practices Act, 15 U.S.C. § 1692 *et seq*;
- (2) Actual damages;
- (3) Statutory damages of \$1000.00 pursuant to 15 U.S.C. § 1692k;
- (4) Reasonable attorneys' fees, costs pursuant to 15 U.S.C. § 1692k; and
- (5) Awarding such other and further relief as may be just, proper and equitable.

RESPECTFULLY SUBMITTED,

By: /s/ Adam T. Hill  
Adam T. Hill  
KROHN & MOSS, LTD.  
120 W. Madison St., 10th Fl.  
Chicago, Illinois 60602  
Telephone: 312-578-9428  
Telefax: 866-289-0898  
ahill@consumerlawcenter.com  
Attorneys for Plaintiff

**DEMAND FOR JURY TRIAL**

PLEASE TAKE NOTICE that Plaintiffs Jeffrey Duncan & Sherry Duncan hereby demand a jury trial in this matter.

**VERIFICATION OF COMPLAINT AND CERTIFICATION**

STATE OF PENNSYLVANIA

Plaintiff, JEFFREY DUNCAN, states the following:

1. I am the Plaintiff in this civil proceeding.
2. I have read the above-entitled civil Complaint prepared by my attorneys and I believe that all of the facts contained in it are true, to the best of my knowledge, information and belief formed after reasonable inquiry.
3. I believe that this civil Complaint is well grounded in fact and warranted by existing law or by a good faith argument for the extension, modification or reversal of existing law.
4. I believe that this civil Complaint is not interposed for any improper purpose, such as to harass any Defendant(s), cause unnecessary delay to any Defendant(s), or create a needless increase in the cost of litigation to any Defendant(s), named in the Complaint.
5. I have filed this Complaint in good faith and solely for the purposes set forth in it.
6. Each and every exhibit I have provided to my attorneys which has been attached to this Complaint is a true and correct copy of the original.
7. Except for clearly indicated redactions made by my attorneys where appropriate, I have not altered, changed, modified or fabricated these exhibits, except that some of the attached exhibits may contain some of my own handwritten notations.

Pursuant to 28 U.S.C. § 1746(2), I, JEFFREY DUNCAN, hereby declare (or certify, verify or state) under penalty of perjury that the foregoing is true and correct.

2/8/10  
Date

  
JEFFREY DUNCAN

**VERIFICATION OF COMPLAINT AND CERTIFICATION**

STATE OF PENNSYLVANIA

Plaintiff, SHERRY DUNCAN, states the following:

8. I am the Plaintiff in this civil proceeding.
9. I have read the above-entitled civil Complaint prepared by my attorneys and I believe that all of the facts contained in it are true, to the best of my knowledge, information and belief formed after reasonable inquiry.
10. I believe that this civil Complaint is well grounded in fact and warranted by existing law or by a good faith argument for the extension, modification or reversal of existing law.
11. I believe that this civil Complaint is not interposed for any improper purpose, such as to harass any Defendant(s), cause unnecessary delay to any Defendant(s), or create a needless increase in the cost of litigation to any Defendant(s), named in the Complaint.
12. I have filed this Complaint in good faith and solely for the purposes set forth in it.
13. Each and every exhibit I have provided to my attorneys which has been attached to this Complaint is a true and correct copy of the original.
14. Except for clearly indicated redactions made by my attorneys where appropriate, I have not altered, changed, modified or fabricated these exhibits, except that some of the attached exhibits may contain some of my own handwritten notations.

Pursuant to 28 U.S.C. § 1746(2), I, SHERRY DUNCAN, hereby declare (or certify, verify or state) under penalty of perjury that the foregoing is true and correct.

2/5/10  
Date

Sherry Duncan  
SHERRY DUNCAN

**EXHIBIT A**

**Terminating**  
**Start Date: 6-April-2008**  
**End Date: 8-Jan-2010**  
**Telephone Number: 7177479150**  
**LP#: 144631**

CALLDATE	CONNECTTIME	FROMNUMBER	TONUMBER	BILLABLETIME
JUN-24-2009	16:00:48	7162135253	7177479150	0:00:52
JUN-26-2009	9:26:45	7162135253	7177479150	0:00:05
JUN-26-2009	12:04:53	7162135253	7177479150	0:00:05
JUN-26-2009	15:47:22	7162135253	7177479150	0:00:52
JUN-27-2009	8:59:21	7162135253	7177479150	0:00:52
MAR-24-2009	9:33:15	7162135634	7177479150	0:00:04
MAR-24-2009	16:03:19	7162135634	7177479150	0:00:06
MAY-14-2009	15:05:14	7162135634	7177479150	0:00:05
MAY-14-2009	17:17:08	7162135634	7177479150	0:00:04
MAY-14-2009	18:51:34	7162135634	7177479150	0:00:52
MAY-18-2009	17:54:48	7162135634	7177479150	0:00:05
MAY-18-2009	20:16:12	7162135634	7177479150	0:00:05
MAY-19-2009	12:17:08	7162135634	7177479150	0:00:05
MAY-19-2009	17:02:25	7162135634	7177479150	0:00:06
MAY-20-2009	15:36:07	7162135634	7177479150	0:00:06
MAY-20-2009	18:15:44	7162135634	7177479150	0:00:05
MAY-20-2009	20:10:22	7162135634	7177479150	0:00:52
JUN-08-2009	14:10:47	7162135634	7177479150	0:00:00
JUN-08-2009	18:06:50	7162135634	7177479150	0:00:52
MAR-26-2009	16:14:25	7162135657	7177479150	0:01:02
APR-13-2009	13:25:54	7162135657	7177479150	0:00:10
APR-13-2009	14:11:22	7162135657	7177479150	0:00:10
APR-13-2009	17:19:23	7162135657	7177479150	0:00:59
APR-14-2009	15:32:54	7162135657	7177479150	0:00:10
APR-14-2009	16:18:57	7162135657	7177479150	0:00:10
APR-14-2009	17:05:37	7162135657	7177479150	0:01:01
APR-20-2009	14:43:53	7162135657	7177479150	0:00:10
APR-20-2009	15:30:02	7162135657	7177479150	0:00:10
APR-20-2009	16:16:12	7162135657	7177479150	0:00:59
JUN-09-2009	16:26:19	7162135657	7177479150	0:00:59
JUN-17-2009	18:17:56	7162135657	7177479150	0:00:10
JUN-17-2009	19:04:43	7162135657	7177479150	0:00:10
JUN-17-2009	19:51:32	7162135657	7177479150	0:00:58